

**STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**MINUTES OF MEETING
Held on November 26, 2019**

1. CALL TO ORDER.

Pursuant to written public notice posted on the State of Hawaii Calendar of Events on October 23, 2019, at 2:32 p.m., and filed in the Office of the Lieutenant Governor on October 22, 2019, at 10:37 a.m., the meeting of the Commission to Promote Uniform Legislation (CPUL) was called to order by Chairman Lani L. Ewart at 10:03 a.m. on Tuesday, November 26, 2019, in the First Floor Conference Room of the Department of the Attorney General, Hale Auhau, 425 Queen Street, Honolulu, Hawaii.

Commissioners Present: Lani L. Ewart, Peter Hamasaki, Blake Oshiro, and Kevin Sumida

Commissioners Absent: Elizabeth Kent (participated unofficially through telephone connection)

Also Present: Ken Takayama and Robert S. Toyofuku, Life Members of the National Conference of Commissioners on Uniform State Laws, Maurice S. Kato, Deputy Attorney General, and Lynda Tobita, Legal Clerk, of the Legislative Division of the Department of the Attorney General

2. APPROVAL OF MINUTES OF MEETING OF JUNE 25, 2019.

Chairman Lani Ewart asked the commissioners to review the minutes of the meeting held on June 25, 2019. Commissioner Sumida moved and Commissioner Hamasaki seconded the motion to approve the minutes of June 25, 2019. The motion passed unanimously, with all commissioners voting in favor of the motion.

3. OLD BUSINESS.

- a. 2019 Annual Meeting of the National Conference of Commissioners on Uniform State Laws (NCCUSL) held in Anchorage, Alaska, from July 12-18, 2019.

Chairman Lani Ewart, Commissioners Peter Hamasaki, Elizabeth Kent, Blake Oshiro, Kevin Sumida, and NCCUSL Life Member Robert Toyofuku attended the 2019 annual meeting.

Chairman Ewart thought that this meeting was better paced than the year before, where there were too many acts to consider. Commissioner Sumida commented that having so many different hotels was not ideal.

4. NEW BUSINESS.

- a. Targeted Uniform Acts for the 2020 Legislative Regular Session (comment, discussion, and possible decisions on which uniform acts the Commission may recommend for enactment).

Mr. Toyofuku reported that there are now fourteen acts on the target list. They added Directed Trust Act to the target list and did not delete anything. There are seven acts on the target list that Hawaii has not passed because of various issues. The target list includes the Revised Unclaimed Property Act, Uniform Unsworn Declarations Act, and the Uniform Voidable Transactions Act.

Chairman Ewart stated that some possible introductions for the 2020 legislature were raised in the last CPUL meeting when the commissioners were working on the legislative plan for the annual meeting. The commissioners discussed what acts could be considered for introduction in the 2020 legislative session.

UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY PROTECTION ACT (UESOPPA).

Commissioner Takayama reported that, although the Uniform Employee and Student Online Privacy Protection Act was introduced in 2019 and is still alive in conference committee for 2020, it would be better to introduce another bill in the form that it is right now. Mr. Kato asked why go through the whole process all over again when the bill is near passage right now. Commissioner Takayama

and Mr. Toyofuku explained that the conferees would probably not meet early on the version that is now in conference committee. They would probably wait until April and even then there is no guarantee that the conferees will meet on that particular bill. The safer way is to put in a new bill and go through all the hearings again.

Commissioner Hamasaki asked if Mandy Fernandes, the Policy Director of ACLU of Hawaii would support the current version, because she previously agreed to the language, but Mr. Takayama stated that she may not have agreed to the language in the S.D. 1 version.

REVISED UNIFORM LAW ON NOTARIAL ACTS (RULONA).

Commissioner Hamasaki met with Deputy Attorney General Dean Soma, who indicated that the Department of the Attorney General would be submitting an administrative proposal revising the notarial act, but it would not include the provision on electronic recording. Commission Oshiro stated that he had a recent discussion with First American Title, who said that they were working with the Department of the Attorney General to submit a bill based on the uniform law and including electronic recording. He said he should be able to get a copy of the draft proposal and then will be able to circulate it to the CPUL members. Chairman Ewart suggested that he also send it to Katie Robinson, the Legislative Program Director of the Uniform Law Commission (ULC).

Commissioner Oshiro shared that he would not be able to testify or lobby for the CPUL legislation because he is wearing two hats, as he also represents the trade associations, of which First American Title is a member.

Commissioner Hamasaki said that, if the First American Title Company draft is a reasonable facsimile of the uniform law, the commission may be able to support it. Commissioner Hamasaki will follow up with the Department of the Attorney General, and Commissioner Oshiro will follow up with First American Title Company.

UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESS ACT (URVCBA) and THE UNIFORM SUPPLEMENTAL COMMERCIAL LAW FOR THE UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESS ACT.

Commissioner Oshiro reported that he talked to Iris Ikeda, Commissioner of Financial Institutions at the Department of Commerce and Consumer Affairs.

She does not like the uniform act so her plan is that DCCA will be doing a pilot project through the Hawaii Technology Development Corporation (HTDC) Sandbox to allow virtual transactions to occur outside of the money transmitter law. After a few years, DCCA can see how it works and will decide if and how DCCA wants to regulate those transactions.

Commissioner Hamasaki pointed out that the reserve issue is a problem because the DCCA Division of Financial Institutions does not want to change the rule. Commissioner Oshiro stated that it is his impression that, under the law, Iris Ikeda has some discretion on the reserve requirement -- to allow people to still conduct transactions so she is doing this through the avenue of the Sandbox pilot project.

The commissioners agreed that there is no point in introducing this act this year.

UNIFORM PARENTAGE ACT (2017).

Commissioner Kent stated that Oahu District Family Court Judge Jessi Hall reached out to her asking about this act. She said that the Judiciary wanted to work with the Family Law Bar prior to introducing it and would like to be sure that all the stakeholders have time before the legislative session to look at the act so that there can be a smoother passage. They are interested in having the bill introduced in 2021. Commissioner Kent stated that she told the Judiciary that she thought it would have a better chance of passage if the Judiciary introduced the bill.

Mr. Takayama asked if she talked to the Child Support Enforcement Agency. Commissioner Kent she had not but said that it was a good point to contact that agency.

UNIFORM TRUST CODE.

The Hawaii Star Bar Association's estate and trust attorneys as well as the Judiciary have been meeting and going through this act section by section and were optimistic to introduce this act in 2020, but were waylaid on another project so they will not be looking at introducing the Uniform Trust Code until 2021. Chairman Ewart noted that there is some pressure from national estate planning groups to try to get this passed. Mr. Toyofuku reported that there have been 35 enactments. Of the western states, only Oregon has passed it. Alaska, California, Hawaii, Nevada, and Washington have not yet passed the Uniform Trust Code. He added that Hawaii only has this act left on ULC's list of targets to

complete.

REVISED UNCLAIMED PROPERTY ACT.

Mr. Toyofuku noted that there have only been four states that have enacted the Revised Unclaimed Property Act (2016) and only 16 states that enacted the original Unclaimed Property Act (1995). He acknowledged that the problem was state administrators fighting off attempts from the private sector to basically give more to the holders so there was not much in terms of added revenue to the states, and the main reason to pass it would be updating of terminologies and making some technical fixes.

REVISED UNIFORM DECLARATIONS ACT.

Commissioner Kent indicated that the Judiciary has said that Hawaii does not need this act because it is already covered by existing laws or rules.

UNIFORM VOIDABLE TRANSACTIONS ACT.

Chairman Ewart stated that she would talk to the partner in her law firm who handles bankruptcy to see if he has heard about any support or opposition to this act. Mr. Toyofuku mentioned that there have been 21 enactments, which include, Alabama, Arkansas, California, Georgia, Idaho, Indiana, Iowa, Kentucky, Michigan, Minnesota, Nebraska, New Mexico, North Carolina, North Dakota, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and West Virginia. Chairman Ewart noted that some big commercial states enacted it, but not New York and Illinois. She asked Commissioner Hamasaki if he could check with any attorneys in his office who works with creditors' rights if there is interest in this act.

UNIFORM ATHLETE AGENTS ACT.

Mr. Toyofuku stated that Idaho Commissioner Dale Higer, the chair of the Standby Committee on the Revised Uniform Athlete Agents Act, sent out a memorandum to the ULC Legislative Committee that the amendment to the Uniform Athlete Agents Act is necessary to make the fair pay to play act available to student athletes.

UNIFORM RECOGNITION AND ENFORCEMENT OF CANADIAN DOMESTIC-VIOLENCE PROTECTION ORDERS ACT.

Commissioner Kent, at the urging of Mr. Takayama, talked to the Honolulu Prosecutor's Office about this act. She found that there is some interest and it may be an act to be considered for introduction in the next year or two. She said that she will contact Nanci Kreidman, Chief Executive Officer at the Domestic Violence Action Center, to be sure that everyone is included in discussions.

UNIFORM TORT LAW RELATING TO DRONES ACT (UTLRDA).

The commissioners said that during the ULC meeting, there was a lot of pushback on the floor to the UTLRDA. An amendment was introduced but was withdrawn after the decision was made to not pass the act.

UNREGULATED TRANSFERS OF ADOPTED CHILDREN COMMITTEE

Commissioner Kent stated that there is a ULC committee to draft a uniform or model law to prohibit the unregulated transfer of adopted children. She thought that the commissioners should be aware of this act because there may be a possibility of legislation being introduced in Hawaii because of Marshallese adoptions being in the news. The act would classify high risk or certain foreign adoptions differently than regular adoptions.

SUMMARY.

The commissioners agreed that, for the 2020 legislative session, the CPUL will submit the Uniform Employee Student Online Privacy Protection Act.

The Revised Uniform Law on Notarial Acts may be introduced as an administrative proposal by the Department of the Attorney General, and/or by First American Title Company. The CPUL will run the legislative bill through the ULC and make a decision on whether or not to testify in support based on the content of the bills and advice from the ULC.

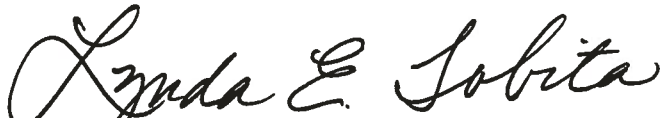
b. Other New Business.

There was no other new business.

5. ADJOURNMENT.

There being no further business, Commissioner Sumida moved and Commissioner Hamasaki seconded, that the meeting be adjourned. The motion carried unanimously and Chairman Ewart adjourned the meeting at 10:44 am.

Respectfully submitted,



Lynda E. Tobita
Legal Clerk
Legislative Division

Approved for Submission:



Maurice S. Kato
Deputy Attorney General

Approved by the Commission:

_____ As Submitted

_____ With Corrections

Date Approved: _____